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TS

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/430,040	10/29/99	WATANABE	K 01489

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EXAMINER

HINDI, N

ART UNIT	PAPER NUMBER
2753	9

DATE MAILED: 09/22/00

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

RA

Office Action Summary	Application No. 09/430,040	Applicant(s) Watanabe et al.
	Examiner NABIL HINDI	Group Art Unit 2753

Responsive to communication(s) filed on Sep 5, 2000.

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

Claim(s) 34-48 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

Claim(s) 41-43 and 46-48 is/are allowed.

Claim(s) 34-40, 44, and 45 is/are rejected.

Claim(s) _____ is/are objected to.

Claims _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The proposed drawing correction, filed on _____ is approved disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) 08/688,294.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). 8

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 2753

In response to applicant's amendment dated Sep. 05, 2000. The following action is taken; Applicant's election with traverse of the claims drawn to species five is acknowledged by the examiner. The examiner agrees with applicant's statement that there are only five species in the specification and the elected claims 34-48 read on the elected species.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

Claims 34-40 are rejected under 35 U.S.C. 102(e) as being anticipated by Tsutsui et al (5751675).

The reference shows an optical disk recording and reproducing apparatus comprising: a multi layer disk 1, focusing means 3, moving means 12, light detecting means (inherently present within the optical head 3), focusing control means 9, moving the focusing means from one layer to another fig 7, and storing means to memorize optimized focusing offset values 33.

With respect to the limitations of claims 35 and 38 see fig 7.

With respect to the limitations of claims 36 and 37 see element 33.

With respect to the limitations of claims 39 and 40 see fig 6.

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With respect to the limitations of claims 44 and 45. The limitation is drawn to the focusing control using the stored focusing offset value. See fig 6 and it's description.

Claims 41-43, and 46-48 are allowed.

Any inquiry concerning this communication should be directed to Nabil.Hindi at telephone number (703) 308.1555



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